

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Final Office Action dated May 11, 2010. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 26-30 are pending in the Application. Claim 26 is the sole independent claim.

In the Final Office Action, claims 26-30 are rejected under 35 U.S.C. §103(a) over U.S. Patent Publication No. 2004/0078382 to Mercer ("Mercer") in view of U.S. Patent Publication No. 2002/0106196 to Yamauchi ("Yamauchi"). These rejections are respectfully traversed. It is respectfully submitted that claims 26-30 are allowable over Mercer in view of Yamauchi for at least the following reasons.

In a Response to Arguments section of the Final Office Action on page 3, it is asserted that the present Final Office Action is made Final since the claims were amended on July 10, 2009. However, a Final Office Action was previously issued on July 17, 2009 in response to that amendment. The present Final Office Action is issued in response to the amendment filed on January 15, 2010 in which the claims were not amended and an appeal brief was subsequently filed on April 12, 2010. Accordingly, it is respectfully submitted that the finality of the present Final Office Action is improper and as such, it is respectfully requested that the finality of the present Final Office Action be changed to non-final.

The Final Office Action on page 4 relies on Mercer, paragraph [0098] for rejecting claim 26, however, it is respectfully submitted that reliance on this portion of Mercer or any

portion for that matter is misplaced. Mercer, in paragraph [0098] states the following (emphasis added):

The exemplary compressed media format of the invention encompasses audio, still images, and video media files 1004 in various formats. The compressed media format for use with the invention defines a logical format for organizing compressed media files 1004 in a file system 1006 on computer-readable media 1008 such as optical discs (e.g., CD-ROM, CD-R, CD-RW, DVD-RAM, DVD-R, DVD-RW, DVD+RW, DVD+R, DVD-ROM), flash memory (e.g., COMPACTFLASH brand, secure digital, MEMORY STICK brand), magnetic media (e.g., hard disks), and the like.

In other words, the compressed format of Mercer is used for nothing more than organizing files in a file system. Nothing in Mercer teaches, discloses, or suggests adding data types to the media files or expanding data types of the media files as for example recited in claim 26.

Further, as stipulated in the Final Office Action at page 5, third paragraph, it is undisputed that Mercer does not teach, disclose or suggest “the physical layer directly linked to a physical character of the optical storage medium” as for example recited in claim 26. The Final Office Action relies on Yamauchi, FIG. 5B and paragraph [0002] for supplying that which is admitted missing from Mercer, however, it is respectfully submitted that reliance on this portion of Yamauchi or any portion for that matter is misplaced.

It is difficult to ascertain how these references help supply that which is admitted missing from Mercer, nevertheless, the Applicants have elected to clarify this element of claim 26. As stated in the present application, “the encoding schemes ... relating to these contents do not have to depend on the physical format of the optical media”. (E.g., see, present application, page 3, line 18 through page 4, line 7.)

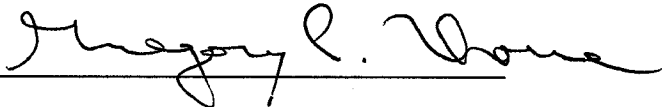
It is respectfully submitted that the apparatus of claim 26 is not anticipated or made obvious by the teachings of Mercer in view of Yamauchi. For example, Mercer in view of Yamauchi does not teach, disclose or suggest, an optical storage medium that amongst other patentable elements, comprises (illustrative emphasis added) "an application layer including a generic logic format having a data structure implemented for describing the content object files on the optical storage medium so as to expand their data types; a physical layer directly linked to a physical character of the optical storage medium, the application layer is independent from said physical layer, said generic logic format preventing dependence of the content object files on the physical character of the optical storage medium", as recited in claim 26.

Based on the foregoing, the Applicants respectfully submit that independent claim 26 is patentable over Mercer in view of Yamauchi and notice to this effect is earnestly solicited. Claims 27-30 respectively depend from claim 26 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of the claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By 

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